



Department  
for Education

# **The national funding formula for schools and high needs: equalities impact assessment**

**September 2017**

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## The public sector equality duty

1. The Equality Act 2010 identifies the following as protected characteristics for the public sector equality duty:
  - Age
  - Disability
  - Gender reassignment
  - Marriage and civil partnership
  - Pregnancy and maternity
  - Race (including ethnicity)
  - Religion or belief
  - Sex
  - Sexual orientation
  
2. Under Section 149 of the Equality Act 2010, the Secretary of State is under a duty to have due regard to the need to:
  - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
  - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
    - remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
    - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
    - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
  - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it, in particular the need to:
    - tackle prejudice, and
    - promote understanding.

## Schools and high needs funding reform

3. The government is committed to an education system that works for everyone. No matter where they live, whatever their background, ability or need, children should have access to an excellent education that unlocks talent and creates opportunity. We want all children to reach their full potential and to succeed in adult life.
4. The national schools budget has been protected in real terms since 2010. In addition to the budget set at Spending Review 2015, the government will invest a further £1.3 billion over 2018-19 and 2019-20, raising the total core schools budget from almost £41.0 billion in 2017-18 to £42.4 billion in 2018-19 and £43.5 billion in 2019-20. We need to ensure that the system for distributing this funding is fair. Under the current system, similar schools and local areas receive unjustifiably different levels of funding, and unfairness in funding levels is seen right across the country. This unfairness confirms our view that funding reform is needed to support the life chances of our most vulnerable children and young people; a fairer funding system will help provide all schools and all areas with the resources needed to provide an excellent education for all pupils.
5. The national funding formula is a significant reform. We have listened carefully to the consultation responses and noted the concerns raised. The additional £1.3 billion invested in schools and high needs will allow us to introduce the funding formula while increasing every school's national funding formula allocation by at least a 1% per pupil by 2019-20, compared to their 2017-18 baselines. Local authorities will receive a similar protection in respect of their high needs funding. We will also allocate a minimum of £4,800 per pupil for every secondary school, and at least £3,500 per pupil for every primary school in 2019-20.
6. Funding will be distributed to local authorities based on the notional school allocations according to the national funding formula for schools in 2018-19 and 2019-20, while local authorities will continue to allocate funding to schools based on the local formulae. It remains the government's long-term intention that individual school budgets should be set on the basis of a single national formula (a 'hard' funding formula), but we accept the importance of stability as the national funding formula is introduced; this was raised as a concern throughout the consultation. Spending plans beyond 2019-20 will be set out in a future Spending Review.

## The consultation process

7. The first stage consultations on the national funding formulae for schools and high needs both opened on 7 March 2016<sup>1</sup> and set out the principles, building blocks and factors for the funding formulae. Both consultations concluded on 17 April 2016. Our proposals received strong support, confirming the case for proceeding with reform of a system that is not fit for purpose.
8. The government's response to both the schools and high needs first stage consultations was published on 14 December 2016, together with the second stage consultation proposals for the formulae<sup>2</sup>. The second stage consultation built on the first and set out proposals for relative weightings of the various formula factors for the schools, high needs and central school services national funding formulae to be used from 2018-19 onwards. The consultations also set out our proposed approach to transition and provided illustrative allocations for all schools and local authorities in England.
9. We have published earlier assessments of the impact on characteristics protected under the Equality Act 2010 on 7 March 2016 with the stage 1 consultations and then on 14 December 2016 with stage 2 consultations. The current version reflects the final decisions on the national funding formulae, and the latest data and allocations.

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<sup>1</sup> Department for Education, [Schools national funding formula](#), 7 March 2016  
Department for Education, [High needs funding reform](#), 7 March 2016

<sup>2</sup> Department for Education, [Schools national funding formula stage 1 response](#), 14 December 2016  
Department for Education, [Schools national funding formula - stage 2](#), 14 December 2016  
Department for Education, [High needs national funding formula - stage 2](#), 14 December 2016

## Funding formulae

10. Final decisions on the funding formulae are set out in the accompanying policy document and technical notes which will be published alongside this document shortly. The table below summarises our final decisions on the national funding formulae to be implemented from 2018-19.

**Figure 1: key decisions on the schools and high needs funding formulae**

Schools national funding formula	High needs national funding formula
<ul style="list-style-type: none"> <li>• In 2018-19 and 2019-20 funding will be allocated to local authorities based on the notional school allocations according to the national funding formula, while local authorities will continue to allocate funding based on their local formulae</li> <li>• The formula will consist of 4 building blocks: basic per-pupil funding; additional needs funding; school-led funding; and geographic funding</li> <li>• All schools will attract at least 0.5% more per pupil funding in 2018-19 and at least 1% more by 2019-20, compared to 2017-18 baselines</li> <li>• Gains in per pupil funding will be capped in both 2018-19 and 2019-20 at 3% on the previous year</li> <li>• Additionally, all primary schools will attract minimum per pupil funding of £3,300 in 2018-19 and £3,500 in 2019-20, and secondary schools of £4,600 in 2018-19 and £4,800 in 2019-20; this minimum will not be subject to the 3% cap on gains</li> <li>• The funding floor for new and growing schools will be calculated on an if-full basis</li> <li>• With agreement of their schools forums, in 2018-19 local authorities may transfer up to 0.5% of funds from the ring-fenced schools block for other purposes, e.g. to the high needs block</li> </ul>	<ul style="list-style-type: none"> <li>• A national funding formula for allocating high needs funding to local authorities will be introduced from 2018-19</li> <li>• The formula will provide basic per pupil funding of £4,000 for pupils in special schools, and allocate the rest of the funding using historic spend and proxy factors</li> <li>• The following proxy factors will be used: population, deprivation, low attainment, health and disability</li> <li>• 50% of what local authorities are spending on high needs from their 2017-18 dedicated schools grant allocation will be allocated through the historic spend factor</li> <li>• Basic entitlement and proxy factors will be adjusted for the variations in area costs</li> <li>• All local authorities will receive at least 0.5% more funding per head in 2018-19 and at least 1% more per head of population by 2019-20, compared to their 2017-18 baselines</li> <li>• Local authorities will be able to gain up to 3% a year, in proportion to any increase in their 2-18 population, in 2018-19 and 2019-20</li> </ul>

In addition, the new central school services block (CSSB) will be created to fund the ongoing duties local authorities hold for both maintained schools and academies. Funding will be allocated by the formula proposed in December 2016.

11. The additional £1.3 billion we are investing in schools and high needs means that all local authorities will receive some increase in 2018-19, over the amount they plan to spend on schools in 2017-18. Every school will attract a higher level of per-pupil funding than it would have done had the December 2016 proposals been adopted. No school will lose funding through our national funding formula in 2018-19 and 2019-20.
12. As a result of the additional investment in the high needs national funding formula, all local authorities will see an increase in funding per head.

## Consideration of the protected characteristics identified in the Equality Act 2010

13. As part of our first and second stage consultations, we published and sought views on our initial assessment of the potential impact with regard to protected characteristics. We received a number of responses to the equalities analysis from a variety of schools, local authorities and stakeholders. The vast majority of comments were not specifically in response to the impact on the identified protected characteristics, but were instead general comments on the national funding formulae. We have taken these responses into account under the relevant questions as set out in the government responses.
14. This document sets out our response to the relevant points raised during both stages of consultation and our further assessment of the impact of the policy decisions, made as a result of the second stage consultation, on persons with characteristics protected under the Equality Act 2010.
15. For the most part, this document provides the analysis of allocations under the full funding formulae. As detailed in figure 1, transitional arrangements will be in place in 2018-19 and gains will continue to be capped for some schools after 2019-20.
16. The analysis is also based on the assumption that local authorities will fund their schools in accordance with the national funding formula. In practice, in 2018-19 and 2019-20, local authorities will retain the discretion to distribute funds in accordance with locally-set formulae (and in doing so, they should also comply with equality considerations). So the actual impact of the reforms may not be exactly in line with our modelling assumptions. We are confident, however, that our modelling provides a sound basis for considering the potential impact on protected characteristics.
17. Introduction of the national funding formulae will create a fairer and consistent distribution of funding that is more closely aligned to need and is essential to supporting opportunity for all children, irrespective of their background, ability, need, or where in the country they live. Our funding system will target funds to those pupil groups where the evidence is clear that they need additional support. It does not seek to target funding by reference to particular protected characteristics under the Equality Act 2010, but instead targets funding to those groups which the evidence demonstrates face barriers to their educational achievement. We believe that all pupils will benefit from the clearer and fairer distribution of funding that these reforms will produce.

## Age

18. The public sector equality duty, so far as it concerns age, does not apply to the exercise of a function relating to the provision of education to pupils in schools<sup>3</sup>, including those pupils over the age of 18.
19. A key consideration in designing the national funding formula for schools is the ratio of funding between the primary and secondary phases. We recognise that there is a differential in funding related to age – that is a deliberate feature of the current funding system, where we require local authorities to provide basic per-pupil funding of at least £2,000 at primary and £3,000 at secondary. As pupils progress through key stages, the breadth and complexity of the curriculum increases, requiring more subject experts, specialist teaching facilities and examination fees expenditure. For this reason, we continue to believe that funding allocations should differentiate between phases to reflect the higher costs in the secondary phase.
20. The basic per-pupil funding rates in the schools funding formula will increase in steps from primary to key stage 3 and key stage 4, in line with current practice by local authorities. The national funding formula will maintain the current average pattern of funding distribution between schools, where almost three quarters of local authorities increase their basic per-pupil funding rates from primary to key stage 3 and then again to key stage 4. The formula does not shift the current overall primary to secondary ratio.
21. It is for schools to decide how to use their funding across the age groups within the school.
22. Some respondents to the consultations were concerned that reductions in funding suggested by our earlier proposals could potentially incentivise premature retirement of older teachers in favour of younger, potentially less costly teachers. The additional investment we are making in schools means that all local authorities will see their funding increased. In addition, we will be helping schools to make efficiency savings which will allow them to direct a greater proportion of their budgets to investment in staff.
23. High needs funding supports provision for pupils and students with special educational needs (SEN) or disabilities aged between 0 and 25. We are not proposing to weight any element of the high needs national funding formula towards any particular age group because the cost of providing additional

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<sup>3</sup> Legislation, [Schedule 18, Equality Act 2010](#), 2010  
Department for Education, [Equality Act 2010: advice for schools](#), 2014

support for pupils and students with SEN is not significantly affected by their age.

24. Some respondents raised concerns that using the population count for 2-18 year olds would ignore the 19-25 year olds with SEN or disabilities for which local authorities are also responsible. We have looked carefully at whether to include a factor relating to the population for 19-25 year olds in the high needs formula. However, we are aware that the total number of young people in this age group, in each local authority, is not necessarily proportionate to the number with high needs: for example, areas with significant university student populations are likely to have large concentrations of 19-25 year olds without high needs. As such, we remain convinced that the 2-18 population count is our best available population measure, and is more likely to represent a good proxy for the number of 19-25 year olds with high needs in an area than a count of the overall 19-25 population. It is for local authorities to decide how to spend their high needs budget to ensure that there is suitable provision for all pupils, taking account of their responsibilities to the entire 0-25 year old cohort.

## Sex

25. Following current funding arrangements, the funding formulae for schools and high needs will not differentiate funding levels on the basis of sex. Whilst we recognise there is an attainment gap between boys and girls<sup>4</sup>, we are not aware of evidence that suggests funding levels disproportionately benefits a particular sex; targeting funding on the basis of pupils' sex would have very little impact as the vast majority of schools have a broadly equivalent number of boys and girls.
26. Some respondents raised concerns about this proposal. Although we recognise that boys, and in particular white boys, have lower average attainment than girls, this is addressed directly in the formulae through the low prior attainment factor (in the schools formula) and the low attainment factor (in the high needs formula). We do not believe that there is a case to direct additional funding on the basis of sex for this reason.
27. We have also considered consultation responses which argued that the female workforce will be impacted disproportionately by any primary school staffing changes that schools decide to put in place as a result of funding pressures. However, as noted above, overall funding will now be maintained in real terms per pupil. All schools' cash allocations under the national funding formula will be higher than their baselines.

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<sup>4</sup> Department for Education, [National curriculum assessments: key stage 2, 2016 \(revised\)](#), 2016

## Gender reassignment, marriage and civil partnership, pregnancy and maternity, and sexual orientation

28. We believe there are no direct links between the funding reform and the protected characteristics of gender reassignment, marriage and civil partnership, pregnancy and maternity, or sexual orientation. We received no responses relating to these characteristics and have not been made aware of any evidence indicating that our funding reform proposals would differentially affect people who possess them.

## Religion

29. Our funding reforms will be applied to all schools consistently, including faith schools. Schools' funding allocations will be set in line with funding of other similar schools around the country. Schools designated with a religious character would see their funding change, not due to the status of their school, but because they are subject to the funding reform in the same way as all other local state-funded schools.

30. The impact of the national funding formula is broadly similar for faith and non-faith schools. 56.3% of faith schools and 60.1% of non-faith schools are not on the funding floor and will attract gains of 1% or more.

31. There is a difference between Christian and non-Christian faith schools – 56.8% of the former, but only 15.9% of the latter are not on the funding floor and will attract gains of 1% or more. This reflects the higher occurrence of non-Christian faith schools in urban areas which have been more likely to see deprivation levels fall since the last time funding was allocated according to a formula.<sup>5</sup> Where deprivation has declined over the last decade, schools are more likely to see lower gains. Nonetheless, non-Christian faith schools will still be funded at higher rates, receiving average per-pupil funding of £4,855, in comparison to the national average of £4,662. This reflects their tendency to be located in areas of higher overall levels of deprivation.

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<sup>5</sup> There is a significant overlap between non-Christian faith and minority ethnicity, and both have a positive correlation with deprivation. Thus, the following section on the characteristic of race also reflects the impact on non-Christian faith schools.

## Race (including ethnicity)

32. We have considered the impact of our funding reform proposals on the protected characteristic of race. For schools we will use 3 'additional needs' factors – deprivation, low prior attainment and English as an additional language. For high needs, we will target funding according to low attainment, children's health and disability, and deprivation.
33. Some respondents in the first stage of the consultation raised concerns about our proposal to exclude a mobility factor from the schools funding formula. Some felt that this could disproportionately impact Gypsy/Roma pupils and pupils of Irish traveller heritage. We acknowledge the concerns raised and have decided to include a mobility factor. We will allocate funding for mobility on an historic basis in 2018-19 and will consider alternative methods of allocation to be used in later years.
34. Some respondents also expressed concern that the introduction of the national funding formula for schools could divert money away from ethnic minority groups. We have deliberately chosen not to include the broad characteristic of ethnicity as a funding factor in the formula, relying instead on the additional needs factors.
35. The majority of ethnic groups achieve above the national average<sup>6</sup>. Those ethnic groups that achieve below the national average will be targeted for additional funding through the low prior attainment factor, which we have increased significantly in weighting compared to the current spend by local authorities.
36. We also know that there is a significant overlap between areas of high deprivation and the proportion of pupils from an ethnic minority background. It follows, therefore, that the impact on schools with a high proportion of ethnic minority pupils will be similar to that of schools in deprived areas. We have chosen to increase deprivation funding to reflect the funding currently channelled to deprived areas through the per-pupil basic and lump sum factors by some local authorities.
37. Increased spending on the English as an additional language factor in the schools formula will also channel funding for some ethnic minority groups.
38. As set out above, schools with a high proportion of ethnic minority pupils will continue to attract more funding through the additional needs factors than schools with a low proportion of ethnic minority pupils. Schools with the highest

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<sup>6</sup> Department for Education, [National curriculum assessments: key stage 2, 2016 \(revised\)](#), 2016  
Department for Education, ['Revised GCSE and equivalent results in England: 2015 to 2016'](#), 2017

proportion of low-achieving ethnic groups will attract average per-pupil funding of £5,030 compared to the national average of £4,662.

39. However, schools with a high proportion of ethnic minority pupils are likely to see relatively lower gains. This is because they tend to be concentrated in areas which have benefitted historically from higher rates of funding due to high historic deprivation levels. Many of these areas have seen a significant reduction in their level of deprivation since 2005-06, when a formula was last used to allocate funding to local authorities. The schools formula will be a fairer and more transparent way of distributing funding related to deprivation, and will include a definition of deprivation that reaches a broader range of pupils.
40. Overall, the impact of the national funding formula on the protected characteristic of race is explained not by pupils' ethnicity, but by the wider characteristics of the areas in which they are more likely to live. Our assessment is that the introduction of the formulae will deliver a fairer funding system for all pupils, with pupils from all backgrounds funded on a consistent and transparent basis.

## Disability

41. With the additional £1.3 billion investment on top of existing spending plans, the core schools and high needs budget will increase by a total of £2.6 billion between 2017-18 and 2019-20, maintaining core schools and high needs funding in real terms per pupil up to 2019-20. As pupil numbers increase, so will the amount of money in our schools. This settlement provides protection for funding for children and young people with SEN and disabilities. Amounts allocated year-on-year will recognise demographic changes and support the continuing implementation of important SEN reforms introduced by the Children and Families Act 2014.
42. In our analysis, we have assumed that the number of SEN pupils in a school closely correlates with the number that have a disability, as most of the 12 types of SEN either relate explicitly to disability, or will encompass learning disabilities.

## Schools funding

43. The department does not currently collect statistics on school pupils with a disability. We have decided not to include a specific SEN or disability factor in the national funding formula for schools because of the lack of reliable information or robust data, and because using such a measure would create a perverse incentive to over-identify SEN and disability. We have instead chosen to use low prior attainment in particular as a proxy indicator of need, in part because of its strong correlation to SEN. The low prior attainment factor directs additional funding for every pupil who did not reach the expected standard at the

previous stage. It takes into account every pupil in the school, and eligible pupils continue to attract this additional funding for as long as they are at the school. As well as helping schools to support all pupils who need to catch up with their peers, a particularly important function of this factor is to direct funding to schools likely to be supporting pupils with SEN in mainstream provision.

44. Schools are required to identify and address the special educational needs of the pupils they support. Mainstream schools are expected to meet the first £6,000 of additional costs for each child. We are not proposing to change these arrangements. The deprivation and low prior attainment factors in the schools national funding formula will direct extra resources towards mainstream schools that are likely to face additional costs in making provision for pupils with SEN and disabilities. We know that schools can be disadvantaged if they admit a disproportionate number of pupils with high needs, or a significant number of pupils with needs for which the formula does not have a suitable proxy. Where this is the case, it is entirely appropriate for local authorities to use funding from their high needs budgets to support mainstream schools that adopt a particularly inclusive approach, and many authorities already do this. Authorities with a high proportion of mainstream places for those pupils with high needs will not need to resource as many high needs places elsewhere, and the consequent savings should be directed into the inclusive schools.
45. We have looked at the impact the national funding formula could have on schools with high numbers of SEN pupils. Under a national funding formula, schools with higher proportions of pupils with a statement of SEN, an educational health and care plan (EHCP), or in receipt of SEN support would attract higher average per-pupil funding rates. For instance, schools with the highest proportion of pupils with a SEN statement or EHCP will attract average per-pupil funding of £4,947, and with the highest proportion of pupils with SEN support £4,986, compared to the national average of £4,662.
46. Some respondents were concerned that small remote schools would find it difficult to meet the first £6,000 of additional costs for SEN pupils. Due to their size, this amount for each pupil is a greater proportion of their budget and their opportunities to achieve greater economies of scale through collaboration with other schools are limited because they are remote. Lump sum and sparsity factors in the schools funding formula will benefit these schools, increasing their per-pupil funding. Those small rural schools that do not receive significant funding through the additional factors are likely to benefit from the minimum per-pupil funding. Local authorities will also be able to use their high needs budget to support such schools.

## High needs funding

47. As part of the national schools budget protection, we provided an uplift of £130 million to the high needs block in 2017-18. The additional funding announced will allow us to ensure that all local authorities see at least a 1% increase per head of their 2-18 year old population by 2019-20.
48. The new funding formula for high needs will allocate more funding on a formulaic basis using proxy indicators to identify need:
- a. **health and disability:** using two funding factors that directly relate to disability: disability living allowance and children in bad health. The disability factor specifically targets funding towards children who receive disability living allowance; both factors are specific indicators of the health and disability aspects of SEN and disability.
  - b. **low attainment:** reflecting the strong correlation between attainment and SEN. 14% of pupils with SEN achieved the expected level in reading, writing and mathematics at key stage 2 in 2016 compared to 62% of those with no SEN<sup>7</sup>.
  - c. **socio-economic disadvantage:** two indicators of deprivation: pupil-level and area-level deprivation data to reflect the significant overlap between pupils eligible for free school meals and SEN.
  - d. **population:** using population data to allocate high needs funding will reflect that in every given population there will be a proportion of those with high needs.
49. The weightings of the formula factors, as set out in the policy document published alongside this document, will ensure that schools and local authorities with the highest level of need attract the most funding. This will, in turn, have a positive impact on the protected characteristic of disability. The formula also ensures that every local authority will gain some funding, which will ensure that children and young people in existing high needs placements will not need to have their provision changed simply because we are introducing a national funding formula.
50. We acknowledge that proxy indicators of need will not reflect every type of SEN or disability, but we believe that using proxy indicators is most appropriate to avoid any perverse incentives for a local authority to over-identify SEN to secure additional funding. We are also allocating 50% of funding according to existing spending patterns, which will help to reflect the position of any areas with higher levels of SEN or disability that are not picked up by our proxy indicators.

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<sup>7</sup> Department for Education, [National curriculum assessments: key stage 2, 2016 \(revised\)](#), 2016

Importantly, we are proposing to retain the system of top-up funding at local level, so that resources can be linked directly to the support that institutions give to individual pupils and students.

51. Concerns were expressed in both the schools and high needs consultations about the proposal to ring-fence the schools block impacting those pupils with a disability. We accept that some local authorities may face particular challenges, and in July we confirmed that we would not ring-fence the schools block in 2017-18. We will ring-fence the school block from 2018-19, but will allow local authorities, with the agreement of their schools forums, to transfer up to 0.5% of their school block allocation into the high needs block, to address the concerns raised. We have also set out a range of other support for local authorities, including a strategic planning fund to help them review, plan ahead and implement changes locally to make sure that suitable provision for children and young people with SEN and disabilities is available<sup>8</sup>.

## Mental health

52. A number of respondents expressed concern about whether enough consideration was given specifically to mental health issues. Mental health is a protected characteristic under the Equality Act 2010 as long as it fits the definition of a disability under [section 6 of the act](#). The section states that a person has a disability if their mental impairment “has a substantial and long-term adverse effect on [the person’s] ability to carry out normal day-to-day activities”, where ‘long-term’ means lasting at least 12 months<sup>9</sup>. Thus, the act identifies disabilities by their effects rather than medical diagnosis and is more inclusive than previous legislation.
53. As stated above, we are not including a specific disability factor (including mental health) because there is a lack of robust data to support it, and because to do so would create perverse incentives to identify children in order to access funding. The Queen’s Speech 2017 confirmed the government’s intention to transform the provision of mental health support. A cross-departmental green paper on mental health support provision is forthcoming later this year. We will take the outcomes of that consultation into consideration in the funding formula, where appropriate, in due course .
54. The schools and high needs formulae to be introduced from 2018-19 use low prior attainment and deprivation proxy factors to allocate funding. These factors have a high correlation with both SEN and mental health. Funding allocated through these factors in the schools formula would help schools meet the funding need that falls below the high needs threshold of £6,000. The

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<sup>8</sup> Department for Education, ‘[High needs national funding formula and other reforms](#)’, 2016

<sup>9</sup> See detailed guidance on the definition of disability under the act [here](#).

introduction of minimum per-pupil funding levels will help to ensure that schools which receive little or no funding from the additional needs factors can also address mental health issues.



Department  
for Education

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